Legal & Policy Advisory Group Meeting
September 17, 2013 2:30-4p

Name	Organization
Kathleen Snyder	EOHHS Legal
Sarah Moore	Tufts Medical Center
Claudia Boldman	EOHHS
Amanda Littell-Clark	University of Massachusetts Medical School
Amanda Cassel-Kraft	MassHealth
Adam Tapply	Center for Health Information and Analysis
Support Staff	Massachusetts eHealth Collaborative
Micky Tripathi	Massachusetts eHealth Collaborative
Mark Belanger	Massachusetts eHealth Collaborative
Jennifer Monahan	Massachusetts eHealth Collaborative

Review of Materials and Discussion

Project Updates

- Mass HIway Phase 1- Transaction and Deployment Update (as of September2013) (Slide 2)
    - Eight organizations moved into production (exchanging patient data) in September, making the total number 24. One organization went live (connected by not exchanging data) totaling 11.
    - An update on the number of transactions was provided. In September there were 110,547 transactions, overall totaling over 1,557,181 transactions, 55 organizations have signed agreements and are in various stages of connectivity.
- Phase 2 Overall Timeline (Slide 3)
    - Most of the Public Health Nodes are now live or in testing. The preliminary approach to the Phase 2 Design is complete, but the Design team is still open to feedback and the go-live for Phase 2 is slated for November 2013- March 2014.
    - A kick-off event similar to the Golden Spike event is in the works for the November timeframe.

Phase 2 Policy Input

- Refresher- Phase 2 Record Location and Record Request Services (Slide 5)
- Refresher- Draft of Phase 2 Consent Position (Slide 6)
    - Vetted the idea of the two part consent position; allowing for operational flexibility.

- Comment: EOHHS will provide guidance, but the state does not want to interpret the law for participants.

- Working Session-Gathering input regarding consent attestation guidance (Slide 7)
  - The Phase 2 services addendum to the Participation Agreement breaks down the levels of consent that need to be addressed: publish and view, initiate a request.
  - EOHHS will need to provide criteria-"What does it mean when you check the consent flag." Feedback from the group will be helpful.
  - The RLS has actual technical control- check the consent button, attesting that you have documented consent from the patient.
  - EOHHS is still on the fence about providing mandatory language; however there are some requirements that should be put into place, for example mention of the MA HIway is required.

Question posed to the group; In terms of the consent form for the RLS, does it make sense to call out what demographic information is being sent. Patients can understand what is being published and what is visible.

- It would be too much detail, especially if it changes.
- It is hard to tell what is meant by demographic information; there should be some way to provide an explanation. If an educational brochure is created, there could be a popup check box in the system that says "you have given a brochure."
- There are only seven items to list; it would not be hard to call those out, explaining only three elements are actually exposed.
- Being able to include all of the consent in one document would streamline the process, in some systems there is only one consent flag; all or nothing.
- Patients are accustomed to signing multiple pages of documentation before the receive treatment; some may not even read the form.
- Using the Notice of Privacy Practices might make the most sense, and it would be less complicated.
- Question- Would a user be able to communicate to the HIway without the HISP.
  - Answer- Some vendors will not allow for that connection, webmail is another option, however the user would also be listed in the RLS twice (eCW HISP and webmail name).

Topics to address:

- Payer inclusion- A small group will meet to tease out the details; minimum necessary, and self-pay for example.
- Sensitive conditions-The entity itself could reveal a potential diagnosis. Those organizations will need more guidance, understanding that the summary of care record will include all information, including lab tests.
    - Some substance abuse facilities require new consent at each encounter. May need a custom rule to throw the flag to "no" until the new consent preference is indicated.
- Minors- How will consent work for minors when they turn 18? The HIway does not plan to address those issues; providers are currently dealing with those notices. The details of how this would work should be addressed; one suggestion would be to have the patient "auto expire." The HIway knows the date of birth (DOB) and could drive an expiration on alert, however alerting is not in the initial design right now
- HISP-HISP relationship- The legal and policy issues will need to be included in the Participation Agreements. The HIway will require that members that are in another HISP must sign another participation agreement; does not matter if they are coming indirectly or via eCW for example.
    - The Direct standard does not specify many requirements for HISPs, there will be gaps to sort through. From the end user perspective, the user is delegating the responsibility for deliver to eCW, the recipient. If eCW does not deliver the message, they would be at fault.

Next steps

- Based on all of the work that needs to be done, we will consider holding another meeting in between the next meeting (November 19th).
- The HIway has a new website: MAHiway.net
- Key points and recommendations synthesized and provided back to Advisory Group for final comments
- Presentation materials and notes to be posted to EOHHS website
- Next Advisory Group Meeting – October 19, 2:30-4:00 - will be covering Phase II consent for input from the group.
    - MMS Plymouth Conference Room
    - Conference call – (866) 951-1151 x. 8234356
- HIT Council- Tuesday, November 12, 2013, 3:30-5:00 One Ashburton Place, 21st floor.

HIT Council meeting schedule, presentations, and minutes may be found at http://www.mass.gov/eohhs/gov/commissions-and-initiatives/masshiway/hit-council-meetings.html